

IN THE SUPREME COURT OF ONTARIO

DIVISIONAL COURT

Evans, C.J.H.C., Steele and Carruthers, JJ.

IN THE MATTER OF the Ontario
Human Rights Code, R.S.O.
1970, c.318, as amended;

AND IN THE MATTER OF the
complaint made by Mr. Brett
Bannerman on behalf of Miss
Debbie Bazso of Waterford,
Ontario, alleging discrimina-
tion in denial of accommoda-
tion, services or facilities
because of sex by the Ontario
Rural Softball Association,
Hickson, Ontario

B E T W E E N :

ONTARIO RURAL SOFTBALL
ASSOCIATION

Appellant

- and -

ONTARIO HUMAN RIGHTS
COMMISSION and
BRETT BANNERMAN

Respondents) Heard: June 26, 1978

EVANS, C.J.H.C.:

This is an appeal from the decision of Professor Sidney N. Lederman, Chairman of the Board of Inquiry, appointed pursuant to Section 14a(1) of The Ontario Human Rights Code, R.S.O. 1970, c.318, as amended, who ordered that the appellant cease providing sex-segregated divisional softball playoffs for children aged 11 years and under and henceforth provide integrated playoff competition for both boys and girls within this age group. The order is dated the 19th day of May 1977.

The appellant association was formed in 1931 and incorporated in 1976. The purpose of the association is to provide an organized system of softball playoffs among small rural municipalities in Ontario. The association organizes softball leagues for boys, girls, men and women but does not provide for integrated playoffs or for integrated teams of boys and girls. Mr. Bannerman was the coach and manager of a softball team in Waterford and one of his players was Debbie Bazso. Miss Bazso was selected for the Waterford All-Star Team but her players' certificate was not approved by the appellant and it is common ground that the refusal of the certificate was based solely on the fact that Debbie Bazso was a 9-year-old girl who desired to play on a boys' all star team.

Following the rejection of her application, a complaint was registered and the Board of Inquiry followed.

This appeal was argued immediately following the appeal by the Ontario Minor Hockey Association v. Cummings and involves the same section of the Ontario Human Rights Code, namely Section 2(1).

Counsel for the appellant advanced several arguments but I am of the view that the matter can be resolved by giving to this appeal the same interpretation given to the same section in the Ontario Minor Hockey Association v. Cummings.

In this case we are not concerned with the right of Debbie Bazso to play softball, either for an all girls team or for an integrated team in the Waterford House League. The position of the appellant is that she is not entitled to play on a boys' team in championship playoffs organized by the appellant.

The appellant provides, as found by the learned arbitrator, an organized means by which boys' teams and girls' teams from different rural centres in Ontario are able to separately compete in playoffs for various trophies and championships.

In my opinion, the service or facility made available by the appellant was an organized structure for the promotion of softball in rural communities. The appellant offered a facility open to teams composed of girls and to teams composed of boys but offered no facility for integrated softball.

The by-laws of the Association established certain criteria for eligibility of teams participating in the playoffs. Those who qualified were entitled to avail themselves of the service or facility offered by the appellant. An integrated team was not eligible to take advantage of or to utilize the facility made accessible by the appellant. The refusal to grant a "playing card" to Debbie Bazso, in the circumstances, did not contravene the Ontario Human Rights Code and

the Order of the Chairman of the Board of Inquiry cannot stand.

The appeal is allowed, the decision of Professor Lederman is set aside and in lieu thereof an order will issue declaring that the appellant has not breached Section 2(1)(a) and (b) of the Human Rights Code by providing sex-segregated divisional playoffs for children aged 11 years and under and by failing to provide integrated playoff competition for both boys and girls within this age group.

In my opinion, this is not a case for costs.

/mcb

Gregory T. Evans
CJHC.

[Signature]
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Softball Association, Hickson, Ontario

B E T W E E N :

ONTARIO RURAL SOFTBALL ASSOCIATION

- and -

ONTARIO HUMAN RIGHTS COMMISSION and
BRETT BANNERMAN

J U D G M E N T.

EVANS, C.J.H.C.

Released
Aug 15/78
Lucy Evans
COAC

